

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

E. L. COX, COMMISSIONER OF INSURANCE
FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 98-88265-CR

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

Hon. James R. Giddings

A.G. No. 1998053333A

Respondent.

ORDER OF REHABILITATION
AND INJUNCTIVE RELIEF

At a session of said Court
held in the Circuit Courtrooms
for the County of Ingham
State of Michigan, on the
11 day of Sept, 2001

PRESENT: HONORABLE
Circuit Judge James R. Giddings

WHEREAS, Petitioner, Frank M. Fitzgerald, Commissioner of the Office of Financial & Insurance Services of the State of Michigan (Commissioner), having filed a Verified Petition for Order of Rehabilitation Pursuant to MCL 500.8112; and

WHEREAS, on July 31, 2001, this Court entered its Preliminary Order of Rehabilitation and Injunctive Relief and Order to Show Cause Why a Final Order of Rehabilitation Should Not Issue Pursuant to the Verified Petition of the Commissioner of the Office of Financial & Insurance Services; and

WHEREAS, Respondent OmniCare Health Plan does not wish to proceed with a show cause hearing and has stipulated that it does not oppose the issuance of this Order of Rehabilitation and Injunctive Relief;

NOW, THEREFORE, IT IS HEREBY ORDERED that, pursuant to MCL 500.8112 and MCL 500.8113, the Commissioner's Petition for Order of Rehabilitation is hereby GRANTED, and an Order of Rehabilitation of OmniCare Health Plan (hereafter "OmniCare") is hereby issued.

IT IS FURTHER ORDERED that the Commissioner is hereby appointed Rehabilitator of OmniCare, and is further authorized to appoint one or more Special Deputy Rehabilitator[s] pursuant to MCL 500.8114(1).

IT IS FURTHER ORDERED that the Rehabilitator shall take immediate possession of all the assets of OmniCare and administer those assets under the court's general supervision.

IT IS FURTHER ORDERED that, by operation of law, legal title to all assets of OmniCare is hereby vested in the Commissioner as Rehabilitator. The filing or recording of this Order with the Clerk of the Circuit Court or the Register of Deeds for the county in which the principal office or place of business of the Respondent is located shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that Register of Deeds would have imparted.

IT IS FURTHER ORDERED that the Rehabilitator shall have all the powers set forth in MCL 500.8114 and 500.8115 without being specifically set forth in this Order, all applicable powers set forth in Chapter 81 of the Michigan Insurance Code of 1956, as amended, being MCL 500.8101 *et seq*, and such additional powers as this court shall grant from time to time upon petition of the Rehabilitator.

IT IS FURTHER ORDERED that all powers of the current directors, officers, and managers of OmniCare, are hereby suspended in their entirety upon issuance of this Order of Rehabilitation, except as they may be redelegated by the Rehabilitator.

IT IS FURTHER ORDERED that the Rehabilitator may take such action as he considers necessary or appropriate to reform or revitalize OmniCare, and shall be empowered to pursue all avenues of reorganization, consolidation, conversion, merger, or other transformation of OmniCare so as to effectuate a rehabilitation and maintain a continuity of health care services to the greatest extent possible.

IT IS FURTHER ORDERED that if the Rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger or other transformation of OmniCare is appropriate, he shall prepare a plan to effect those changes which shall be submitted for approval to this court.

IT IS FURTHER ORDERED that the Rehabilitator shall have full power to direct, manage, hire, and discharge employees subject to any contract rights they have, and to deal in totality with the property and business of OmniCare as provided by law.

IT IS FURTHER ORDERED that the Rehabilitator shall take all steps necessary so as to preserve the existing provider network so as to maintain uninterrupted health care services. The Rehabilitator shall take all necessary steps to provide payment on a going forward basis to all health care providers for services rendered subsequent to the date of this Order of Rehabilitation pursuant to all existing provider agreements, WHICH AGREEMENTS, OR AMENDED AGREEMENTS, REMAIN IN FULL FORCE AND EFFECT pursuant to MCL 500.8105(1)(k), until further order of this court.

IT IS FURTHER ORDERED that pursuant to MCL 500.8113(3), entry of this Order of Rehabilitation shall not constitute an anticipatory breach of any OmniCare contracts. All

persons, including medical service providers, doing business with OmniCare on the date of this Order of Rehabilitation are hereby enjoined and restrained from terminating or attempting to terminate such relationship or contract on the basis of the entry of this Order of Rehabilitation or OmniCare's financial condition during the pendency of the rehabilitation pursuant to MCL 500.8105(1)(k).

IT IS FURTHER ORDERED that, pursuant to MCL 500.8106, all employees, or agents of OmniCare, or any other persons with authority over or in charge of any segment of the affairs of OmniCare, including United American Health Care Corporation, shall cooperate fully with the Commissioner, as Rehabilitator, and the Deputy Rehabilitator. Full cooperation requires:

- (a) prompt replies in writing to any inquiry requesting such a reply; and
- (b) immediate, full and complete access to and use of all books, accounts, documents, and other records, information or property of or pertaining to OmniCare in the possession, custody, or control of any person or entity as may be necessary so as to enable the Rehabilitator and Deputy Rehabilitator to operate the business and to maintain the continuity of health care services being provided to all subscribers. As provided by law, failure to cooperate may result in any sentence requiring the payment of a fine not exceeding \$10,000.00, imprisonment for a term of not more than one year, or both, as provided by MCL 500.8106.

- (c) no obstruction or interference with the Rehabilitator or Deputy Rehabilitator in the conduct of this rehabilitative receivership proceeding pursuant to MCL 500.8105(1)(c).

IT IS FURTHER ORDERED that United American Health Plan, presently licensed as a third party administrator, and the health care management corporation currently providing management and administrative services to OmniCare, shall honor its contract and continue to perform all services to which it is obligated under the existing contract, or any subsequent

amended contract, with OmniCare, until further order of this court, as the continuation of these services is essential to the continuation of health care service to over 100,000 subscribers.

IT IS FURTHER ORDERED that United American Health Care Corporation is enjoined and restrained from the transfer of books, records, and property of OmniCare wheresoever located, or from taking any action that might lessen the value of OmniCare's assets or prejudice the rights of OmniCare policyholders, creditors, or the administration of this rehabilitative receivership proceeding, as provided in MCL 500.8105(1)(b)(d)(k).

IT IS FURTHER ORDERED that United American Health Care Corporation is enjoined and restrained from the interference in any way with the Rehabilitator or with this rehabilitative receivership proceedings, and shall cooperate fully with the Rehabilitator under the rehabilitative receivership proceedings, pursuant to MCL 500.8105(1)(c) and MCL 500.8106.

IT IS FURTHER ORDERED that pursuant to MCL 500 8105(1)(g)(k) and MCL 500.3529(3), all non-contracted and contracted medical care providers are hereby enjoined and restrained from obtaining any judgments and/or balance billing of OmniCare subscribers for all medical services rendered prior to the date of this Order of Rehabilitation.

IT IS FURTHER ORDERED that all employer groups currently contracted with OmniCare for health care services for its employees, are hereby enjoined and restrained from terminating or attempting to terminate such relationship prior to the expiration date of the existing contract pursuant to MCL 500.8105(1)(k), pending further order by this court.

IT IS FURTHER ORDERED that pursuant to MCL 500.8115, all pending actions or proceedings in which OmniCare Health Plan is a party, or is obligated to defend a party, are hereby stayed for ninety (90) days from entry of this Court's July 31, 2001 Order, and such additional time as is necessary for the Rehabilitator to obtain proper representation and prepare for further proceedings.

IT IS FURTHER ORDERED that the Rehabilitator shall make an accounting to the court on or before September 1, 2001, and each succeeding six month period thereafter.

IT IS FURTHER ORDERED that the court reserves jurisdiction to amend this Order of Rehabilitation or issue such further orders as it deems just, necessary and appropriate.

JAMES R. GIDDINGS

JAMES R. GIDDINGS
Circuit Judge

